IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11516 of 2004

Between:

Bonda Raju, S/o. Nageswara Rao, R/o.Bhimavaram, W.G.Dist.

..... PETITIONER

AND

1 Dist.Collector, West Godavari Dist. at Eluru.
2 Mandal Revenue officer, Bhimavaram, W.G.District.
3 The Commissioner, Bhimavaram Municipality,Bhimavarm,W.G.Dist.
4 The Municipal Council, Bhimavaram, rep.by its Chairperson, Bhimavaram, W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the proposed action of the respondents to demolish petitioner's building bearing D.No.22-6-14, situated in Gorrelavari Veedhi (Kurisetivari street), Bhimavaram-I, W.G.District, without following due process of law, as illegal, arbitrary, and violative of principles of natural justice and for a consequential order directing the respondents and their subordinates to drop all further proceedings including demolition of petitioner's building bearing D.No.22-6-14, situated in Gorrelavari veedhi (Kurisetivari Street,) Bhimavaram-I, W.G.District.

For the Petitioner: MR. CH. DHANAMJAYA, Advocate.

For the Respondent Nos.1&2: GP FOR REVENUE

For the Respondent Nos.3&4: Mr. Dantu Srinivas, SC for Bhimavaram Municiplality

The Court at the admission stage made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the third respondent-Municipality and at their request the writ petition itself is taken up for final disposal at the stage of admission. Rule Nisi.

The petitioner claiming to be owner of the building bearing door No.22-6-14, situate in Gorrelavari veedhi (Kurisetti vari street), Bhimavaram-1, West Godavari District, filed the present writ petition questioning the action of the respondents in proposing to demolish the building of the petitioner for the purpose of road widening without following due procedure as contemplated under A.P. Municipalities Act (for short "the Act").

It is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the third respondent-Municipality that the subject matter of this writ petition is squarely covered by the judgment of this Court in W.P. No. 23682 of 2003, dated
17-11-2003. In the circumstances, following the said judgment this writ petition is disposed of in the following terms.

It is well settled by a catena of decisions of this Court that the property of citizens for widening of roads can only be acquired by following the procedure contemplated under the provisions of the Act. If the owners are not willing to give consent for such acquisition, it is open to the Municipality to proceed under the provisions of the Act by initiating proceedings under the Land Acquisition Act, 1894 and can take possession of the property by paying the market value of such property.

If the petitioner is not willing to agree for acquisition by negotiation, the building of the petitioner bearing door No.22-6-14, situate in Gorrelavari Veedhi (Kurisetti vari street), Bhimavaram-1, West Godavari District shall not be demolished without following the procedure as contemplated either under the A.P. Municipalities Act or under the Land Acquisition Act.

With the above direction, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

Date: 08-07-2004

Svv

To

1 The District Collector, West Godavari District, at Eluru.
2 The Mandal Revenue officer, Bhimavaram, W.G.District.
3 The Commissioner, Bhimavaram Municipality,Bhimavarm,W.G.Dist.
4 The Chairperson, Municipal Council, Bhimavaram,
Bhimavaram, W.G.Dist.

5 Two CCs. to Govt. Pleader for Revenue, High Court Buildings, A.P.,
Hyderabad (OUT)

6 Two CD copies.